

Plaintiffs hereby move for leave to file an amended proposed order concerning the scope of relief. The amended proposed order, filed concurrently herewith, contains only a single edit from the original proposed order filed on October 21, 2019, which is the deletion of the phrase “funds appropriated by the 2019 Consolidated Appropriations Act” where that phrase is used. This edit is intended to clarify that the § 2808 “military construction” funds and § 284 “support for counterdrug activities” funds that Defendants are unlawfully spending on a border wall were not themselves appropriated by the 2019 Consolidated Appropriations Act. The amended proposed order best conforms to this Court’s opinion, which held that using any funds appropriated for “military construction, under § 2808, and counterdrug activities, under § 284,” on a border wall, violates the 2019 Consolidated Appropriations Act. ECF No. 129, at 26.

Dated: October 23, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this same date, I electronically filed the foregoing document with the U.S. District Court for the Western District of Texas by using the CM/ECF system, which will send notifications of such filing to all CM/ECF counsel of record.

Dated: October 23, 2019

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

EL PASO COUNTY, TEXAS
500 E. San Antonio
El Paso, TX 79901, and

BORDER NETWORK FOR HUMAN RIGHTS
2115 N. Piedras St
El Paso, TX 79930,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States of America,

MARK T. ESPER, in his official capacity as
Secretary of Defense,

KEVIN McALEENAN, in his official capacity as
Acting Secretary of Homeland Security,

TODD T. SEMONITE, in his official capacity as
Commanding General
United States Army Corps of Engineers,

DAVID BERNHARDT, in his official capacity as
Acting Secretary of the Interior,

STEPHEN T. MNUCHIN, in his official capacity as
Secretary of the Treasury,

Defendants.

Civil Action No. 3:19-cv-66-DB

**[PROPOSED] ORDER
GRANTING A
DECLARATORY JUDGMENT
AND PERMANENT
INJUNCTION**

[PROPOSED] ORDER

Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, the Court declares that Proclamation 9844 of February 15, 2019, 84 Fed. Reg. 4949, is unlawful to the extent it authorizes border wall construction using funds appropriated for “military construction” under 10 U.S.C. § 2808. The Court further declares that Defendants’ border wall construction using funds appropriated for “military construction” under 10 U.S.C. § 2808, and “support for counterdrug activities” under 10 U.S.C. § 284, is unlawful. Defendants Mark T. Esper, in his official capacity as Secretary of Defense, Kevin McAleenan, in his official capacity as Acting Secretary of Homeland Security, Todd T. Semonite, in his official capacity as Commanding General of the United States Army Corps of Engineers, David Bernhardt, in his official capacity as Acting Secretary of the Interior, and Steven T. Mnuchin, in his official capacity as Secretary of the Treasury, and all persons acting under their direction, are enjoined from border wall construction using funds appropriated for “military construction” under 10 U.S.C. § 2808, and “support for counterdrug activities” under 10 U.S.C. § 284.

SO ORDERED this _____ day of October, 2019.

Hon. David Briones
Senior United States District Judge